

# EXHIBIT H

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IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

VLADIMIR AVERBUKH, Individually and  
as Personal Representative of the Estate of  
Boris Averbukh

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CASE NO. CAE09-35924

And

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ALESANDER AVERBUKH, Individually,

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§

Plaintiffs,

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§  
§

And

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§

ALLA AVERBUKH, Individually,

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§

Use Plaintiff

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v.

ENTERPRISE RAC COMPANY OF  
MARYLAND, LLC

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And

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ENTERPRISE LEASING COMPANY

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§  
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And

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ENTERPRISE RENT-A-CAR COMPANY

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And

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DELPHI CORPORATION

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§  
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And

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§  
§

DELPHI AUTOMOTIVE SYSTEMS LLC

And

THE ROCKMONT MOTOR COMPANY

And

ALLA AVERBUKH

ACON, THORNTON  
& PALMER  
LLP  
CAPITAL OFFICE PARK  
6411 IVY LANE  
SUITE 500  
GREENBELT, MARYLAND  
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§

Defendants.

**PRETRIAL STATEMENT OF DPH HOLDINGS CORPORATION (FORMERLY  
KNOWN AS DELPHI CORPORATION) AND DPH-DAS LLC  
(FORMERLY KNOWN AS DELPHI AUTOMOTIVE SYSTEMS LLC)**

Comes now Defendants, DPH Holdings Corporation (Formerly Known as Delphi Corporation) and DPH-DAS LLC (Formerly Known as Delphi Automotive Systems LLC) ("Delphi"), by and through their counsel, Bacon, Thornton & Palmer, L.L.P. and Patricia Thornton, Esq., and respectfully file this Pretrial Statement pursuant to Maryland Rule 2-504.2 and state the following:

**1. Statement of Facts by Plaintiffs**

Plaintiffs, Vladimir Averbukh, in his individual capacity and as Personal Representative of the Estate of Boris Averbukh, and Alesander Averbukh, in his individual capacity, and with notice to the Use Plaintiff, Alla Averbukh ("Plaintiffs"), filed a sixteen count Complaint against Defendants Enterprise RAC of Maryland, LLC, Enterprise Leasing Company, Enterprise Rent-A-Car Company ("the Enterprise Defendants"), Delphi, the Rockmont Motor Company, and Alla Averbukh. Plaintiffs assert negligence, strict liability and breach of implied warranty claims against Delphi, and contend their decedent, Boris Averbukh, suffered severe and fatal injuries in an automobile collision on or about April 7, 2007. Plaintiffs allege their decedent was wearing his shoulder and lap belt during the incident, but the front passenger air bag of the vehicle in which Mr. Averbukh was a passenger failed to deploy.

**2. Statement of Facts by Delphi**

Due to the condition of the subject vehicle, Delphi cannot presently confirm it supplied any of the components at issue in this lawsuit. Delphi generally denies liability for the allegations contained in Plaintiffs' Complaint and contends Plaintiffs' claims may be barred by

the sole and/or contributory negligence of Plaintiffs; misuse of the products at issue; assumption of known risks; and/or post-manufacture alteration, modification, or change in the condition of the products. Delphi maintains its products met all industry standards and were produced, manufactured, sold and/or distributed in accordance with the then existing state-of-the-art technology. Depending on the outcome of further investigation and discovery, Delphi asserts the intervening and superseding negligence or intentional actions of persons or entities over whom Delphi had no authority or control may have been the cause of Plaintiffs' injuries and losses. Plaintiffs' claims may also be barred by the statute of limitations and/or Plaintiffs' failure to mitigate their damages.

**3. Amendments Required of the Pleadings**

Delphi does not require amendments to its pleadings at this time, but reserves the right to seek leave of court to amend its pleadings as facts are developed through discovery.

**4. Simplification or Limitation of Issues**

Delphi is not aware of any issues that can be simplified or limited at this juncture of the proceedings.

**5. Stipulations of Fact**

Because this lawsuit is in the early stages of discovery, Delphi does not stipulate to any facts at this time.

**6. Details of Damages Claimed**

Plaintiffs seek judgments against the Enterprise Defendants, Delphi, and the Rockmont Motor Company, jointly and severally, in the amount of Twenty-Five Million Dollars (\$25,000,000.00) plus interests and costs. Plaintiffs seek judgment against Alla Averbukh, jointly and severally, in an amount in excess of the jurisdiction limit of Thirty Thousand

Dollars (\$30,000) plus interest and costs. Plaintiffs identify the following damage elements: physical pain and suffering; severe mental anguish and emotional pain; pecuniary loss; and loss and deprivation of Boris Averbukh's society, companionship, comfort, care, attention, advice, counsel, services, and support.

Delphi does not assert any affirmative claims in this matter but seeks dismissal of Plaintiffs' claims with prejudice with costs to be borne by Plaintiffs.

7. **Exhibits**

By Delphi:

1. Documents produced by Delphi in response to Plaintiffs' First, Second and Third Requests for Production
2. Photographs of the subject vehicle produced by Plaintiffs
3. Plaintiffs' Answers to Delphi's Interrogatories
4. Documents produced by the Maryland State Police in response to Deposition Duces Tecum
5. Photographs in the file of Trooper of Quintana Walker
6. Post Mortem Examination Report from the Office of the Chief Medical Examiner, State of Maryland

Delphi reserves the right to utilize any and all exhibits listed by Plaintiffs and co-Defendants.

8. **Witnesses**

By Delphi:

1. Trooper Quintana Walker
2. Trooper Jason Treleaven

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3. Alla Averbukh
4. Tasha Z. Greenberg, M.D., Assistant Medical Examiner
5. David R. Fowler, M.D., Chief Medical Examiner
6. Representatives of Delphi

Delphi reserves the right to call any and all witnesses listed by Plaintiffs and co-Defendants.

**9. Witnesses by Deposition**

By Delphi: None at the present time, however, they reserve the right to utilize any depositions of witnesses who become unavailable at trial.

**10. Expert Witnesses**

Delphi has not made determinations regarding expert witnesses it might call to the trial of this case. Delphi will supplement its response to this request in accordance with the Maryland Rules of Civil Procedure and any applicable scheduling order entered by the Court.

Delphi reserves the right to call as expert witnesses, any experts listed by Plaintiffs or co-Defendants.

**11. Other Matters**

Delphi requests the Court consider and grant Delphi's Motion for Special Admission of Out-of-State Attorney Philip McDaniel.

Delphi reserves the right to supplement this Pretrial Statement up until the time of trial.

Respectfully submitted,

BACON, THORNTON & PALMER, L.L.P.

*P. Thornton* / *AP*

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 19<sup>th</sup> day of **January, 2011**, a copy of the foregoing, **Pretrial Statement of DPH Holdings Corporation (formerly known as Delphi Corporation) and DPH-DAS LLC (formerly known as Delphi Automotive Systems LLC)**, was mailed, postage prepaid, first class to:

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